

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

APR 13 2012

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2011-0327
)	DEPARTMENT B
Appellee,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
SANTIAGO SANTAMARIA PARGAS,)	the Supreme Court
)	
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20111253001

Honorable John S. Leonardo, Judge

AFFIRMED

Isabel G. Garcia, Pima County Legal Defender
By Alex D. Heveri

Tucson
Attorneys for Appellant

ESPINOSA, Judge.

¶1 After a jury trial, appellant Santiago Pargas was convicted of two counts of aggravated driving under the influence (DUI) after having been convicted of two or more prior DUI offenses within eighty-four months—one count for driving while impaired to the slightest degree and one count for driving with a blood alcohol concentration (BAC) of .08 or more. After ordering Pargas to serve concurrent, mandatory, four-month prison

terms, *see* A.R.S. § 28-1383(D), the trial court suspended further imposition of sentence and placed him on a three-year probationary term. Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), stating she has reviewed the record and has found no “meritorious issue to raise on appeal.” Arguing that “*Anders* requires the appellate court to review for any error that might warrant relief—fundamental or not,” counsel has asked us to search the record for any reversible error except those that “would inure to the detriment of a criminal defendant.” Pargas has not filed a supplemental brief.

¶2 Viewed in the light most favorable to sustaining the verdict, the evidence was sufficient to support the jury’s findings of guilt. *See State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999). The evidence presented at trial showed that an off-duty officer observed Pargas driving erratically at approximately 2:30 a.m. on March 26, 2011. Other officers arrived and stopped Pargas, who smelled strongly of intoxicants, slurred his speech, and had bloodshot, watery eyes. He performed poorly on field sobriety tests, and subsequent blood testing showed he had a BAC of .230. The evidence also established that Pargas had committed DUI offenses in June 2004 and March 2008.¹ We further conclude the prison and probationary terms imposed were appropriate. *See* A.R.S. §§ 13-702; 28-1383(A)(2), (D)(2), (L)(1).

¶3 We have reviewed the record, and, even assuming *arguendo* Pargas’s proposed interpretation of *Anders* and its progeny is correct, we find no error warranting

¹Pargas was convicted of those offenses in August 2004 and July 2008, respectively.

relief, fundamental or otherwise. Pargas's convictions, prison terms, and terms of probation are affirmed.

/s/ Philip G. Espinosa
PHILIP G. ESPINOSA, Judge

CONCURRING:

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge